

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.11581 of 2004

22nd December 2006

Between:

R. Seetharama Rao, S/o Seshagiri Rao.

.. Petitioner

And

1. Government of Andhra Pradesh, rep.
by its Secretary, Food and Agriculture Department,
Secretariat, Secretariat Buildings,
Hyderabad and two others.

.. Respondents.

ORDER: (Per Hon'ble Sri Justice B. Prakash Rao)

The petitioner, who was working as Agricultural Officer and was compulsorily retired from service, filed this Writ Petition, *inter alia*, seeking a writ of Certiorari assailing the order dated 28.03.1997 in R.P.No.27427 of 1989 on the file of the Andhra Pradesh Administrative Tribunal (for brevity 'the APAT') at Hyderabad, dismissing his application filed under para 7 of the A.P. Administrative Tribunal Order, 1975 by confirming the order of the first respondent in G.O.Ms.No.693, Food and Agriculture (Agril.V) Department dt.19.09.1989 on the basis of the recommendations made by the Member of Tribunal for Disciplinary Proceedings, Hyderabad in TEC No.92 of 1986, dated 09.07.1987.

Heard Sri M. Dilip Rao, learned counsel appearing for the petitioner and the learned Government Pleader for Services-I appearing for the respondents.

The facts and the chequered events in brief, which arise out of the present case, are that after obtaining degree in B.Sc., (Ag.) in the year 1971, the petitioner was selected as Agricultural Officer in the

Departmental Selection and accordingly he joined service on 01.06.1974. While he was working in the said Office at ITDA, Palvancha, Khammam District in the year 1984, according to the petitioner, a false and concocted complaint was lodged against him by Bhukya Bhimla of Regalla village of Palvancha at the instance of the local Ex. MLA, who bore grudge against him, *inter alia*, alleging that he demanded a bribe of Rs.250/- (Rupees two hundred and fifty only) each from fifteen villagers and however, when they paid only Rs.1,500/- (Rupees one thousand five hundred only) on 19.09.1984, he abused them in filthy language as to why the entire amount has not been paid and when he was about to take out petrol from the Motor bike, they have prevented him but he tore the currency notes into pieces and throw the same on the ground. It was further alleged in the complaint made against him, he stated that he is a tiger and he will not accept any bribe and the money brought will be burnt with petrol. According to the petitioner, the very allegations do not constitute any ingredients of 'offer and acceptance' for registering a case under the provisions of Prevention of Corruption Act and the very reference of the matter to the Tribunal for Disciplinary Proceedings (for short 'the TDP') without even consulting the Head of the Department is in violation of the Fundamental Rules guaranteed under Articles 14 and 16 of the Constitution of India. Further, even before the TDP, the entire

evidence and the material on record were not properly appreciated and the TDP had erroneously held that tearing notes into pieces amounts to misconduct within the meaning of Rule 2(b) of APCS (Disciplinary Proceedings Tribunal) Rules, 1961 without giving any finding as to the 'offer and acceptance' which is the basic ingredient. Further, it is the case of the petitioner that the TDP did not properly take into consideration the specific plea of *alibi* raised by him or the fact that the prosecution has failed to establish the *prima facie* case to hold him guilty of the charges. It is stated that in fact, he was in a Camp to Narsapur and Chittoor since 11.09.1984 and returned to Khammam on 18.09.1984 and accompanied the Project Officer for discussion with District Collector regarding the Orchard Programme on 18.09.1984 and reached Palvancha at 7.30 p.m., and therefore, the entire story is only a concocted one. Further, it was stated that as per the instructions of the Project Officer in Procs. No.Rc.No.C/7271/84, dated 04.09.1984, the Accounts Section should pay the amounts by individual cheques duly getting the beneficiaries identified by the Agricultural Officers, ITDA, Palvancha whereas in this case, amounts were paid to them through cheques without they being identified by him on 12.09.1984 and therefore, he has absolutely no knowledge. Thus, no case has been established against the petitioner for the

impugned action. The first respondent-Government also did not properly look into the report of the TDP in a proper perspective and erroneously accepted the said recommendation and ordered for compulsory retirement. Even before the APAT where a challenge was made to the impugned action, the matter was kept pending for quite some time and without properly considering the various pleas raised by the petitioner, the same was rejected. Hence, the Writ Petition.

Sri M. Dilip Rao, learned counsel for the petitioner substantially by taking us through the entire evidence and the material on record and the findings at both the levels, contends mainly to the effect that absolutely no case has been made out against the petitioner to impose such serious punishment of compulsory retirement at the very young age since all the villagers, who alleged to have made the payment, have not been examined and the plea of *alibi* has remained not properly looked into. Further, the findings at all levels are purely based on presumptions and assumptions and lastly it is contended that the punishment as imposed is quite not commensurate to the gravity of the offence as alleged against the petitioner.

The learned Government Pleader for Services-I appearing for the respondents sought to repel the aforesaid contentions pointing out that there has been a detailed enquiry before the TDP in respect of the allegations and the charges as made against the petitioner and the

findings are not only supported by the evidence and material but also the well laid reasons and therefore, this Court would not in any way go once again to such re-appreciation to come to a different conclusion.

Considering the submissions made in detail and in depth and at full length, the only point which arises for consideration is as to whether the disciplinary action taken against the petitioner and the ultimate punishment imposed is just ?

There is no dispute in regard to the service of the petitioner. The complaint against the petitioner and as pointed out by him in the affidavit filed in support of the Writ Petition is to the effect that there is a demand for money at Rs.200 /- (Rupees two hundred only) each from the fifteen villagers which has not been acceded to, the petitioner tore the notes and throw away on the ground. The main contention of the petitioner is that the entire allegations in the complaint are only at the instance of an Ex.MLA, who bore grudge against him, and therefore, there is absolutely no basis or any *bona fides*. However, the fact remains that on the basis of the aforesaid complaint and the order by the Government for enquiry before the TDP vide G.O.Ms.No.237, Food and Agriculture (Agrl.V) Department, dated 22.04.1986, the charge includes to the effect that while he was working as Agricultural Officer at Palvanha from November 1981 to October, 1984, actuated by

corrupt motives and abuse of official power, he demanded a sum of Rs.250/- (Rupees two hundred and fifty only) from each of 15 applicants for helping them in securing subsidy under land development scheme and after bargaining, he agreed to receive Rs.200/- (Rupees two hundred only) each and accepted Rs.1,500/- (Rupees one thousand five hundred only) on 19.09.1984 at Regalla village near Tribal Hostel and therefore, he is found guilty of misconduct within the meaning of Rule 2 (b) of A.P. Civil Services (Disciplinary Proceedings Tribunal) Rules 1961 framed under A.P. Civil Services (Disciplinary Proceedings Tribunal), Act, 1960. After the matter went before the TDP, the petitioner pleaded not guilty and hence, there was a regular enquiry. Therefore, on behalf of the Department, P.Ws.1 to 15 were examined to prove the aforesaid charges, of which P.Ws.1 to 3 are the applicants. P.W.4 is the Ex.MLA., P.W.5 is the Sub-Inspector of Police, Palvanha Police Station, P.W.6 is the Panch for seizure of M.O.1, P.W.7 is the Inspector, who conducted the investigation, P.Ws.8, 9, 11, 12 and 14 are the Officials, P.W.13 is the Project Officer, P.W.10 is the scribe of the report made by P.W.1, and P.W.15 is the Inspector, who conducted investigation. On appreciation of the depositions of these witnesses, the TDP by its order dated 09.07.1987 had categorically

found that there is a demand of bribe at the time of inspection of lands as supported by the evidence of P.Ws.1 to 3 and it was negotiated for settlement. Further, the objection raised on behalf of the petitioner to the effect that no independent witnesses are examined i.e., all the other applicants and by taking into consideration the said plea, the TDP held that the said fact itself is not fatal as long as the acceptable evidence is available on record. Even in regard to the plea of *alibi* as raised by the petitioner, the TDP did take into consideration about his Camp and also the visit at Palvancha village on 19.09.1984 with all the timings as mentioned and as spoken to by other witnesses especially P.Ws.9 and 11, and found that the petitioner had went to Palvancha village and attended the Office work and where there is no mention about the arrival time, it cannot negative the visit to village in the evening on 19.09.1984. Therefore, the petitioner has failed to establish the plea of *alibi* to disprove the prosecution version and ultimately basing upon the said report, the Government under the impugned orders in G.O.Ms.No.693, dated 19.09.1989 and on examination thereof, ordered to retire the petitioner from service compulsorily. It is these two proceedings which are assailed by the petitioner before the APAT in the R.P.No.27427 of 1989 virtually reiterating the very same grounds as sought to be urged in this Writ Petition especially to the effect that failure of prosecution to produce all

the witnesses and make out any case and also the plea of *alibi*. On these and other aspects as contended on behalf of the petitioner, the APAT went into the same in detail after going through the entire evidence and the material on record and held that the plea of the petitioner is not acceptable and the APAT is satisfied with the reasons given by the TDP and the said findings are un-assailable. Now, once again an attempt is being made on behalf of the petitioner to re-assert that there is no independent evidence and more so the non-examination of other applicants is quite fatal and the petitioner could not have been at a place where the alleged incident alleged to have been taken since he was away. We have also carefully gone through the submissions made on behalf of the petitioner vis-à-vis the evidence, which has been let in before the TDP. However, though with all the restraints in exercise of powers conferred under Article 226 of the Constitution of India only with a view to see if there is any perverse either at the level of TDP or even before the APAT, we made an attempt to peruse the entire material. However, we are satisfied that it cannot be said that any of the findings arrived at either before the TDP or before the APAT are in any way not supported by any evidence or material or based on mere surmises and conjectures. The petitioner has hopelessly failed to make out any case of perversity in

regard to the ultimate conclusion, which has been arrived at. Having regard to such findings of fact as arrived at, this Court cannot go into the same nor come to any different conclusion as such. The findings at both the levels that the petitioner has demanded money, and after collecting part thereof, tore all the notes into pieces and also that the plea of *alibi* is being totally un-acceptable, do not warrant any interference. Coming to the other last plea is to the effect that the punishment imposed is quite not commensurate to the gravity of the charge. The very allegation of making demand of money is quite a serious one. *Prima facie*, we are of the view that no indulgence need be shown nor warrant any exercise of discretion to lessen the punishment. Hence, we do not find any merits in the above Writ Petition.

The Writ Petition is accordingly dismissed. No costs.

B. PRAKASH RAO, J

RAMESH RANGANATHAN, J

22nd December 2006.
Chvn.